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SUBJ: VICE-PRESIDENT'S POSITION STILL IN LIMBO

REF: A. LILONGWE 133

[1](#)B. LILONGWE 137
[1](#)C. LILONGWE 163

[1](#)1. (SBU) Summary: Cassim Chilumpha's position as Vice-President remains in question, as President Mutharika's government has only partially complied with a temporary court order re-instating the VP. The political saga continued on Sunday, March 19, as government officials barred Chilumpha from welcoming Mutharika back into the country following a visit to Japan. Both sides are awaiting a judicial review which will make a final determination on Chilumpha's status.

[1](#)2. (U) President Mutharika had tried to remove Chilumpha through what is being called the VP's "constructive resignation" (reftels) on February 9. Mutharika announced that because he had willfully neglected to perform his job, Chilumpha had effectively resigned, and that he, Mutharika, had decided to accept this resignation. However, the courts quickly tried to stop the move, and granted Chilumpha an injunction against the "constructive resignation." (reftel B) The VP, who is directly elected along with the President, cannot constitutionally be dismissed from his position except through impeachment.

[1](#)3. (U) After repeatedly (and unsuccessfully) challenging the injunction in court, government has now only partially complied with the ruling. They have returned about half of the VP's vehicles, security guards, and domestic staff. Chilumpha, however, is moving forward with 'contempt of court' charges against numerous government officials-including the President, a number of ministers, and the acting Inspector General of police-for the month-long defiance of the injunction.

[1](#)4. (SBU) The latest slight, delivered after Chilumpha had waited for over two hours at the airport to welcome Mutharika back into the country, came as he was refused entrance onto the tarmac to welcome the President back into the country. This is traditionally the role of the VP, and as such is one of the most public snubs Chilumpha has received to date. What's more, it comes after Chilumpha had been criticized in the media by government officials after failing to see Mutharika off on his trip a week ago.

[1](#)5. (SBU) While the Supreme Court has upheld the Chilumpha's injunction against his dismissal, both sides are awaiting a full judicial review of the move. The review should decide whether or not the "constructive resignation" was constitutional. There is no date set for the review. In a recent conversation with the Ambassador, the Chief Justice described the constitutional cases pending before the court

(of which this has the highest profile) as very straightforward, with a decision likely within a day or two of arguments being presented. The Chief Justice attributed delays in other pending constitutional cases to the Government side (specifically the Attorney General) and lamented the fact that under the present civil procedure rules in effect here, the pace at which cases proceed through the court is largely driven by the parties.

¶6. (SBU) Comment: The feud between Mutharika and his Vice - another fight between the President and his erstwhile colleagues in the UDF -- will certainly figure in next month's parliamentary sitting, as the court case is sure to drag on well into April. Meanwhile, the government's continued attempts to get rid of Chilumpha are beginning to border on desperation. In a country where official protocol is often over-done, turning away the VP at the airport was an extremely public slap in the face. Government's return of some of the perks if not the trappings of Chilumpha's office shows that it recognizes it must at least give the appearance of complying with the courts (and is a clear move to cover itself against contempt charges). However, from the actions of government officials (led by the politically powerful Attorney General Ralph Kasambara, the father of the idea of "constructive resignation") it is clear that the government somehow still thinks it can legally prevail, and is still intent on permanently removing Chilumpha. End Comment.

EASTHAM